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The Department of Social and Health Services, Health and Rehabilitative Services Administration is not in compliance with the federal Medicaid requirements for reporting on adult victims of residential abuse.

Background

As a condition for receiving Medicaid funds, a state must establish and operate a State Medicaid Fraud Control Unit. The Fraud Unit must be a single identifiable entity of the state government and must be separate and distinct from the Medicaid agency. In Washington, Medicaid is administered by the Department of Social and Health Services, while the Medicaid Fraud Control Unit is administered by the Office of the State Attorney General.

The purpose of the Fraud Unit is to investigate and prosecute all Medicaid fraud-related violations. Federal regulations also require the Fraud Unit to review allegations of patient abuse in health care facilities that receive Medicaid payments. Residential abuse also includes neglect and financial exploitation of those in residential care.

The Attorney General's Office and the Department have an agreement requiring the Department to notify the Fraud Unit of all allegations of residential abuse. The agreement stipulates that the Department's Aging and Disability Services Administration shall immediately report to the Fraud Unit allegations of abuse in residential facilities receiving Medicaid funds. To accomplish this, other administrations within the Department must report allegations of residential abuse within their administrations to Aging and Disability Services in a timely manner.

Description of Condition

We found two divisions within the Health and Rehabilitative Services Administration were not complying with the residential abuse reporting requirements. The Division of Alcohol and Substance Abuse and the Mental Health Division's Western State and Eastern State Hospitals were not reporting allegations of residential abuse of vulnerable adults in their care to either Aging and Disability Services or directly to the Medicaid Fraud Control Unit. The Mental Health Division and the Division of Alcohol and Substance Abuse have their own procedures to investigate residential abuse, but the employees who oversee these activities are not independent of the division receiving Medicaid funds as required by the law.

Cause of Condition

- The Mental Health Division stated it was not aware of the reporting policy.
- The Division of Alcohol and Substance Abuse believes that federal confidentiality requirements prohibit it from reporting such allegations.
- While the Department's agreement with the Attorney General's Office specifies the Aging and Adult Services Administration will be the Department's central point of contact for reporting abuse allegations, the Department does not have an overall policy requiring its employees to report all cases of residential abuse to that Administration.

Effect of Condition

Because the Fraud Unit is not aware of all allegations of residential abuse of Medicaid patients, it is unable to perform its required investigatory role in all cases. This non-compliance with federal reporting requirements could jeopardize future federal funding. In addition, this situation could expose vulnerable adults to long-term exploitation, abuse and neglect and could pose a financial liability to the state.

Recommendation

We recommend the Department:

- Establish and follow policies requiring all of its administrations serving vulnerable adults in residential care facilities receiving Medicaid funds to immediately report allegations of residential abuse to the Aging and Disability Services Administration.
- Ensure that Department policies reflect the reporting process stipulated in the agreement with the Attorney General's Office.

Department's Response

The Department concurs with the finding.

- Western State Hospital (WSH), Eastern State Hospital (ESH) and Child Study and Treatment Center (CSTC) will include a statement in their patient abuse policy that the Medicaid Fraud Control Unit (MFCU) will be notified of any patient abuse, neglect and/or financial exploitation.
- The Division of Alcohol and Substance Abuse (DASA) will report to the Medicaid Fraud Control Unit (MFCU) complaints and incidents alleging abuse, neglect or misappropriation of the private funds of patients who

receive Medicaid-funded services in DASA-certified residential chemical dependency treatment programs.

- DASA will request a court order to forward any information protected under 42 Code of Federal Regulations Part 2, regarding Confidentiality of Alcohol and Drug Abuse Patient Records, obtained during an on-site survey that could be evidence of abuse or neglect or misappropriation of the private funds of patients who receive Medicaid-funded services in a DASA certified residential chemical dependency treatment program.

Auditor's Concluding Remarks

Applicable Laws & Criteria

Title 42 of the Code of Federal Regulations, Section 1007.11 stipulates the residential abuse responsibilities of the fraud unit, stating in part:

The unit will also review complaints alleging abuse or neglect of patients in health care facilities receiving payments under the State Medicaid plan and may review complaints of the misappropriation of patient's private funds in such facilities.

Section IV of the Memorandum of Understanding between the Department and the Attorney General's Office, Medicaid Fraud Control Unit (MFCU), executed in March 2000, states in part:

The Department operating through AASA (Auditor's note: now Aging and Disability Services Administration) immediately shall make available to the MFCU allegations of resident abuse, neglect, and financial exploitation in residential care facilities receiving Medicaid funds.